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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,757	10/06/2006	Kevin Michael Mills	139257WOUS	3807
81352	7590	01/21/2011	EXAMINER	
RG and Associates 1103 Twin Creeks Allen, TX 75013			KASRAIAN, ALLAHYAR	
			ART UNIT	PAPER NUMBER
			2617	
			NOTIFICATION DATE	DELIVERY MODE
			01/21/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/599,757	Applicant(s) MILLS, KEVIN MICHAEL	
	Examiner ALLAHYAR KASRAIAN	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Remarks

1. The present Office Action is based upon the Applicant's amendment filed on Dec. 08, 2010. **Claims 1-28 and 30-32** are now pending in the present application.
2. Claim rejections under 35 U.S.C. § 101 is withdrawn.
3. The objections to **claims 6, 16, 22 and 23** are withdrawn.

Response to Arguments

4. Applicant's arguments, see pages 10 through 13 of the Applicant's arguments/remarks, filed on Dec. 08, 2010, with respect to the rejection(s) of claim(s) 1-3 and 7-15 under 35 U.S.C § 102 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of **DeMent et al. (US Patent Application Pub. # 20050117726)**.
5. Applicant's arguments with respect to claims 28 and 30-32 have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant's arguments, filed on Dec. 08, 2010, with respect to combination of Beauford and DeMent have been fully considered but they are not persuasive.

On the second full paragraph of page 13 of the Applicant's arguments/remarks with respect to claims 1 and 17, Applicant argues, "As for DeMent, Applicant has reviewed the disclosure of DeMent and can find no support for the features recited in

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the pending claims. DeMent does briefly mention that an ACM message may include an optional backward call indicator, however, there is no disclosure that 'based on the IAM, receiving an address complete message (ACM) with an optional backward call indicator parameter at the MSC', as recited in claim 1 and 17. There is also no disclosure of 'providing a ring back tone from the first module based on the received optional backward call indicator', as recited in claim 20, and, similarly recited in claims 21, 28 and 32." As Applicant acknowledged, DeMend clearly discloses the limitation "an address complete message (ACM) with an optional backward call indicator parameter"; in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Moreover, DeMent also discloses the limitation "based on the IAM, receiving an address complete message (ACM) with an optional backward call indicator parameter at the MSC" (see par. 0113, 0132). Therefore, the limitation taught by DeMent is explicit not brief (the teachings of DeMent are related to the same subject matter of the Applicant's invention, i.e. personalized or customized ring back).

Applicant's arguments with regards to dependent claims 4-6, 16-27 and 29-32 is/are based on the deficiency of the references to support the limitations of independent claims. The arguments are respectfully traversed for the same reason(s) as stated above for rejection of claims 1, 17, 21 and 28.

Applicant(s) are reminded that the Examiner is entitled to give the broadest reasonable interpretation to the language of the claim. The Examiner is not limited to Applicant's definition, which is not specifically set forth in the claims, *In re Tanaka et al*, 193 USPQ 139, (CCPA) 1977.

The references made herein are done so for the convenience of the Applicant. They are not meant to be limiting and should be considered as a whole.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

A. **Claims 1 and 17** are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: the relationship between the claimed mobile switching center (MSC) and the personal ring back tone platform with consideration of different messages (location request return result, IAM, ACM with an optional back and personalized ring back tone) as they received. For instance, the first limitation, in *claim 1*, discloses the MSC receives the location request return message; however, the relationship (or connection) between the MSC and the personal ring back tone platform, which receives IAM, is unclear.

Claims 1-6 and 18-19 also rejected by the virtue of their dependency on **claims 1 and 17**.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

A. **Claims 1-28 and 30-32** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Beauford (US Patent Application Pub. # 20050094796)** in view of **DeMent et al. (US Patent Application Pub. # 20050117726)** (hereinafter DeMent).

Consider **claim 1**, Beauford discloses a method for providing a personalized ring back tone, comprising:

receiving a location request return result message at a mobile switching center (MSC) (FIG. 2, par. 0026);

based on the location request return result message, receiving an initial address message (IAM) at a personal ring back tone platform (par. 0029; IP 106 is considered as a personal ring back tone platform, see par. 0022, 0024 and 0034);

based on the IAM, receiving an address complete message (ACM) [with an optional backward call indicator parameter] at the MSC (par. 0032); and

providing the personalized ring back tone from the personal ring back tone platform while normal call progress is occurring (par. 0034).

However, Beauford fails to explicitly disclose receiving the address complete message (ACM) with an optional backward call indicator parameter.

In the same field of endeavor, DeMent discloses receiving the address complete message (ACM) with an optional backward call indicator parameter (par. 0132 with consideration of par. 0113).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator parameter as taught by DeMent to the ACM and CPS messages as disclosed by Beauford for purpose of determining the called part status.

Consider **claim 2**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 1 above**, and Beauford further discloses wherein the location request message is sent by a user's HLR (par. 0026).

Consider **claim 3**, Beauford as modified by DeMent discloses the claimed invention **as applied to 2 above**, and Beauford further discloses wherein the personalized ring back tone is provided to a user's device (par. 0024).

Consider **claim 4 as applied to 3 above**, and DeMent further discloses wherein the personalized ring back tone is provided via an open rerve voice path between the personal ring back tone platform and the device (par. 0119).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate an audio channelas taught by DeMent to the IP 106 (the personal ring back tone platform) as disclosed by Beauford for purpose of using an audio or voice channel for ring tone.

Consider **claim 5 as applied to 1 above** and, DeMent discloses if the ACM is received without the optional backward call indicator parameter, receiving a call progress message with an optional backward call indicator parameter at the MSC (par. 0133).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator as taught by DeMent to the ACM and CPS messages as disclosed by Beauford for purpose of determining the called part status.

Consider **claim 6**, Beauford as modified by DeMent discloses the claimed invention **as applied to 5 above**, and Beauford further discloses providing the personalized ring back tone from the personal ring back tone platform based on the received call progress message (par. 0033-0034).

Consider **claim 7**, Beauford as modified by DeMent discloses the claimed invention **as applied to 2 above**, and Beauford further discloses receiving an IAM from the MSC to a terminating network (par. 0029-0030).

Consider **claim 8**, Beauford as modified by DeMent discloses the claimed invention **as applied to 7 above**, and Beauford further discloses receiving an ACM from the terminating network to the MSC (par. 0032, 0037).

Consider **claim 9**, Beauford as modified by DeMent discloses the claimed invention **as applied to 8 above**, and Beauford further discloses receiving an answer message (ANM) from the terminating network to the MSC (par. 0033, 0037).

Consider **claim 10**, Beauford as modified by DeMent discloses the claimed invention **as applied to 9 above**, and Beauford further discloses receiving a release message from the MSC to the personal ring back tone platform (par. 0034, 0038).

Consider **claim 11**, Beauford as modified by DeMent discloses the claimed invention **as applied to 10 above**, and Beauford further discloses wherein the personalized ring back tone is no longer provided based on at least one of: the received release message or the ANM (par. 0034).

Consider **claim 12**, Beauford as modified by DeMent discloses the claimed invention **as applied to 10 above**, and Beauford further discloses wherein the calling party device is joined with a called party device (par. 0034).

Consider **claim 13**, Beauford as modified by DeMent discloses the claimed invention **as applied to 12 above**, and Beauford further discloses wherein the called party device is associated with the ANM (par. 0033, 0037).

Consider **claim 14**, Beauford as modified by DeMent discloses the claimed invention **as applied to 7 above**, and Beauford further discloses wherein the terminating network includes the MSC (par. 0016, 0034).

Consider **claim 15**, Beauford as modified by DeMent discloses the claimed invention **as applied to 7 above**, and Beauford further discloses wherein the terminating network includes another MSC (par. 0016, 0034; it is inherently taught a mobile communication networks includes plurality of MSCs).

Consider **claim 16 as applied to claim 1 above**, DeMent discloses wherein the optional backward call indicator includes at least one of: an element header; an in-band information indicator=1; a call forward may occur indicator; a simple segmentation indicator; a network excessive delay indicator; a user-network interaction indicator=1; a MLPP user indicator; spare bits; or reserved bits (par. 0128, 0132, 0138).

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Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator including in-band information and call forward indicators as taught by DeMent to the ACm message as disclosed by Beauford for purpose of causing value parameter indicating an unsuccessful call.

Consider **claim 17**, Beauford discloses a method for providing a ring back tone, comprising:

receiving an initial address message (IAM) at a sound platform from a mobile switching center (MSC) (FIG. 2, par. 0029; IP 106 is considered as a sound platform, see par. 0022, 0024 and 0034);

receiving an address complete message (ACM) at the MSC from the sound platform (par. 0032, 0037); and

providing the ring back tone from the sound platform (par. 0034).

However, Beauford fails to explicitly disclose the address complete message (ACM) includes an optional backward call indicator parameter.

In the same field of endeavor, DeMent discloses the address complete message (ACM) includes an optional backward call indicator parameter (par. 0132).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator as taught by DeMent to the ACM message as disclosed by Beauford for purpose of determining the called part status.

Consider **claim 18**, Beauford as modified by DeMent discloses the claimed invention **as applied to 17 above**, and Beauford further discloses wherein the ring back tone is received by a device associated with the IAM (par. 0022, 0034, 0002).

Consider **claim 19 as applied to 18 above**, and DeMent further discloses wherein the ring back tone is based on at least one of: a called party, a called party number, a called party device, a calling party, a calling party number, a calling party device, a time of day, a day of the year, or a location (par. 0003).

Therefore, it would have been obvious to a person or ordinary skill in the art at the time the invention was made to incorporate the custom ring-back tone service that may specify one of several audio clips to be played by a respective phone switch network based on caller identification, time-of-day, or other factors as taught by DeMent to ring back tone as disclosed by Beauford for purpose of specifying the type of ring back tone.

Consider **claims 20 and 32**, Beauford discloses a non-transitory computer readable storage medium comprising instructions that when executed by a processor cause the processor to perform:

receiving a first message at a first module from a second module (FIG. 2, par. 0029);

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receiving a second message at the second module from the first module (par. 0032, 0037);

However, Beauford fails to explicitly disclose the second message includes an optional backward call indicator; and providing a ring back tone from the first module based on the received optional backward call indicator.

In the same field of endeavor, DeMent discloses the second message includes an optional backward call indicator (par. 0132); and

providing a ring back tone from the first module based on the received optional backward call indicator (par. 0128, 0138).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator as taught by DeMent to the ACM message as disclosed by Beauford for purpose of determining the called part status.

Consider **claim 21**, Beauford discloses a system for providing a personalized ring back tone, comprising:

a mobile switching center (MSC) (FIG. 1 and 2, par. 0016, , 0026); and

a personal ring back tone module operably coupled to the MSC (FIG. 3), the personal ring back tone module adapted to: accept at least one call leg of multiple call legs to connect a calling party, via the at least one call leg, to the personalized ring back tone, (par. 0034);

and play the personalized ring tone (par. 0034).

However, Beauford fails to disclose the connection to the personalized ring back tone is based on a received optional backward call indicator parameter; request a voice channel to be opened; and play the personalized ring tone via the voice channel.

In the same field of endeavor DeMent discloses the connection to the personalized ring back tone is based on a received optional backward call indicator parameter (par. 0132); request a voice channel to be opened (par. 0057); and play the personalized ring tone via the voice channel (par. 0057 and 0019) .

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator and playing the ringtone through an audio channel as taught by DeMent to the ACM message as disclosed by Beauford for purpose of determining the called part status.

Consider **claim 22**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 21 above**, and Beauford further discloses wherein the personal ring back tone module includes identifiers to a called party's sound files (par. 0019-0021, 0030).

Consider **claim 23**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 22 above**, and Beauford further discloses wherein the personal ring back tone module receives an indication of the calling party from the MSC and based on the indication, provides a sound file identifier (par. 0029).

Consider **claim 24**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 23 above**, and Beauford further discloses wherein the personalized ring tone is played to a calling party based on the received sound file identifier (par. 0019, 0034).

Consider **claim 25**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 21 above**, and Beauford further discloses wherein a second call leg of the multiple call legs is used to attempt a connection to a mobile number (par. 0034).

Consider **claim 26**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 25 above**, and Beauford further discloses wherein the personalized ring tone is played while the connection to the mobile number is attempted (par. 0021, 0034).

Consider **claim 27**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 26 above**, and Beauford further discloses wherein the personalized ring tone is stopped when the connection to the mobile number is successful (par. 0034 and 0038).

Consider **claim 28**, Beauford discloses a communications switch adapted to:

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send a first call leg and a second call leg in parallel (par. 0034);

connect a calling party, via the first call leg, to a personalized ring back tone (par. 0034);

connect the calling party to a called party via the second (par. 0034); and

release the first call leg upon a connection of the second call leg (par. 0034).

However, Beauford fails to disclose the connection to the personalized ring back tone is based on a received optional backward call indicator parameter.

In the same field of endeavor DeMent discloses the connection to the personalized ring back tone is based on a received optional backward call indicator parameter (par. 0132).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the optional backward call indicator as taught by DeMent to the ACM message as disclosed by Beauford for purpose of determining the called part status.

Consider **claim 30**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 28 above**, and Beauford further discloses wherein the release is based on a received answer message (par. 0034, 0038).

Consider **claim 31**, Beauford as modified by DeMent discloses the claimed invention **as applied to claim 28 above**, and Beauford further discloses wherein the

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switch is at least one of a mobile switching center or an internet protocol based switch (par. 0030, 0033, 0034, 0016).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

a. Gaiser et al. (U.S. Patent Application Publication # 20020080777) disclose Method for switching on a subscriber signal, associated switching office and associated program.

10. Any response to this Office Action should be **faxed to** (571) 273-8300 **or mailed to:**

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11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Allahyar Kasraian whose telephone number is (571) 270-1772. The Examiner can normally be reached on Monday-Thursday from 8:00 a.m. to 5:00 p.m.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Jinsong Hu can be reached on (571) 272-3965. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/customer service whose telephone number is (571) 272-2600.

/Allahyar Kasraian/
Examiner, Art Unit 2617

/Jinsong Hu/

Supervisory Patent Examiner, Art Unit 2617